

IMPANELING A CIVIL JURY
Nguyen v. Lee

PREVIOUS LAWSUITS/JUROR SERVICE

If any of you would answer yes to any of these questions, please raise your hand.

1. During the past five years, have any of you served on a jury?

Was it a civil or a criminal case?

If civil, what, in general, was the case about?

Without telling me the outcome, or who won, please tell me whether or not the jury reached a verdict.

2. There is a substantial difference between the burden of proof in a criminal trial and the burden of proof in a civil trial.

In a criminal trial, the prosecution must prove all the essential facts beyond a reasonable doubt.

In a civil trial such as this one, by contrast, the burden of proof is less demanding. To win a civil case, plaintiff must prove all the essential facts by a preponderance of the evidence, which means that after the jury takes into account the evidence the defendants have presented, the jury concludes that the essential facts are more likely true than not true.

Will you be able to put aside your prior jury experience as you sit in this case, to ignore completely anything you learned about the law or evidence in those cases, and decide this case solely on the basis of the evidence that I admit during this trial and on the law as I instruct you in it?

3. Have any of you, or has anyone in your immediate family, been a party (either as a plaintiff or as a defendant) to any lawsuit, civil or criminal? If so, please raise your hand.

If so, who (you or a family member) was the party to the case?

Was the person a plaintiff or a defendant?

What was the nature of the case?

Was it tried by jury? What was the outcome?

Is there anything about that experience that would cause you to question your ability to decide this case fairly and impartially, only on the basis of the evidence I admit during this trial and the law as I instruct you in it?

4. Have any of you ever been a witness in state or federal court in any lawsuit, civil or criminal? Raise hand.

Did you testify for the plaintiff or the defendant?

What was the nature of the case?

Is there anything about that experience that would cause you to question your ability to decide this case fairly and impartially, solely on the basis of the evidence I admit during this trial and the law as I instruct you in it?

LAWS GENERALLY

5. Have any of you, or has anyone in your immediate family, attended law school or had any other training in the law?

If so, will you put whatever knowledge of the law you may have

acquired before today out of your mind during this trial, and will you promise to apply only those legal principles in which I instruct you?

6. Do any of you have any specific feelings or opinions about lawsuits, lawyers or the parties who bring lawsuits, either positive or negative?

7. Do any of you have any personal objection to lawsuits that seek monetary compensation for injuries and damages suffered?

8. Have any of you ever had a claim made against you which you felt to be unjust?

EMPLOYMENT

9. Have any of you or any of your family members or close friends ever had problems getting paid by an employer? If yes, please explain.

how did the matter get resolved.

10. Have any of you or any member of your family ever been terminated or laid off from a job?

What was the reason for the termination?

Was any claim made?

EACH JUROR

11. If you were unjustly terminated by an employer, do you have any feelings about suing others that might keep you from filing a lawsuit to recover damages for your injury. If yes, please explain.

12. Have any of you ever filed any sort of claim against an employer -- whether it be a lawsuit, a workers' compensation claim, administrative claim, a claim of any sort against an employer concerning your employment? If yes, please explain.

13. Have any of you or any member of your family or close friends had any special training in personnel or human resources?

14. Would anything about your employment affect your ability to be impartial in this case?

15. Do any of you believe that Asian employers would be less likely to follow the wage and hour laws than employers who are not Asian?

16. If an employer and an employee gave different accounts of the same event, do any of you think you would be more likely to believe the testimony of the employer? Why?

Do you any of you think you would be more likely to believe the testimony of the employee? Why?

17. Do any of you have any strong feelings about people who gamble that for that reason alone, you would judge them differently than people who do not gamble?

FOR EACH JUROR:

17. Do you think that an employer should be able to terminate an employee for any reason? If yes, please explain.

18. Have you supervised any employees in your work? If so, please explain.

19. Have and of you every fired or disciplined any employees? If so, please explain.

DAMAGES

20. Plaintiff in this case is asking for both economic and non-economic damages. Economic damages include monetary costs to the

plaintiff such as lost wages. Non-economic damages include intangible costs such as physical pain, mental suffering, lost earning capacity, emotional distress, humiliation, and psychological trauma. Do any of you have any personal or moral objections to awarding non-economic damages?

21. Do any of you have any specific feelings about the size of jury awards? If yes, what are they?

22. Do any of you have any limits in your mind as to the amount you would be willing to award someone in a lawsuit?

CLOSING QUESTIONS

23. Do any you have any reluctance about serving as a juror?

24. Is there anyone who would feel any reluctance in joining the discussions with the members of the jury during deliberations?

25. Is there anyone who would feel offended if other members of the jury disagreed with their view of the evidence?

26. It is your duty as a juror to listen to the opinions and points of view of the other members of the jury. Would any of you be unwilling to listen to a fellow juror who disagreed with you?

27. It is also your duty as a juror to express your opinion or point of view regarding the evidence to the other members of the jury. Is there anyone who would be unwilling to speak up and try to persuade other members of the jury who disagreed with your view of the evidence?

28. Is there anyone who would be unwilling to change an opinion if, after listening to the arguments of the other members of the jury, you were persuaded that your opinion was wrong?

29. In a trial the plaintiffs put on their evidence first, and then the

defendants have the opportunity to put on their evidence. Do any of you think you might have difficulty keeping an open mind regarding this case until you have heard all the evidence and I have instructed you on the law?

30. If you are selected to sit as a juror, will you be able and willing to render a verdict solely on the evidence presented at the trial and the law as I instruct you and not based upon your emotions, or any preconceived notions about the facts or the law in this case? Is there anyone who thinks he or she cannot do that?

31. Do all of you understand that you must follow my instructions regarding the law whether you agree with the law or not? If that idea troubles you, please let me know.

32. As a juror, you may have to resolve conflicts in the testimony of witnesses. This means you may have to decide whether to believe or reject all or part of a witness's testimony or who is telling the truth. Is there any juror who feel this is not something he or she can do.?

33. Can any of you think of any experience in your life or any other matter which occurs to you now that you think you should bring to my attention because it may have some bearing on your ability to be fair as a juror in this case?

34. From what you have heard about this case thus far, is there anything that causes any of you to believe that you cannot be fair and impartial as a juror in this case?

35. Is there anything which has happened here this morning which any of you think may affect your ability to be fair and impartial to the parties that you have not told us about up to now?

36. Do any of you have any bias or prejudice, for or against, either of the attorneys in this case?

37. Is there any reason at all why you can't be absolutely fair to the

plaintiffs in this case?

38. Is there any reason at all why you can't be absolutely fair to the defendants in this case?

39. Having heard all the questions put to you, do you know of any reason why you could not sit on this jury and render a fair verdict based on the evidence presented and the legal instructions I give you?

[GIVE COUNSEL 5 MINUTES TO POSE ADDITIONAL QUESTIONS]